



City of LaVerkin

435 North Main St., La Verkin, Utah, 84745

(435) 635-2581 Fax (435) 635-2104

www.laverkin.org

LA VERKIN CITY WATER BOARD AGENDA

Thursday, October 23, 2025, 11:00 a.m.

435 North Main Street, La Verkin, UT

- I. **Call to Order:**
- II. **Approval of Minutes:** June 26, 2025, July 3, 2025, minutes
- III. **Business:**
 - 1 Discussion and Review the Water Re-Use Exchange Agreement.
- IV. **Public Concerns for Board Consideration:** Identification of issues for consideration at future meetings.
- V. **Board members concerns**
- VI. **Adjourn**

In compliance with the Americans with Disabilities Act, individuals needing special accommodations (Including auxiliary communicative aids and services) during this meeting should notify Nancy Cline, City Recorder (435) 635-2581, at least 48 hours in advance.

Certificate of Posting

The City Recorder does hereby certify that the agenda was sent to each member of the board, sent to the Spectrum newspaper, posted on the La Verkin City website www.laverkin.org, the Utah Public Meeting Notice website <http://pnm.utah.gov>, and the city office buildings at 435 N. Main and 111 S. Main on October 16, 2025.

Nancy Cline
City Recorder

City of La Verkin

435 North Main St., La Verkin, Utah, 84745

(435) 635-2581 Fax (435) 635-2104

www.laverkin.org

LA VERKIN CITY WATER BOARD MINUTES

Thursday, June 26, 2025, 9:00 a.m.

435 North Main Street, La Verkin, UT

Present: Doug Wilson, Kelly Wilson, John Valenti, Kenneth Cox, Kris Gubler, Kyle Gubler, Derek Imlay, Kyle Lovelady, Nancy Cline, Morgan Drake, Jeff Gittens, Zack Renstrom and Blaine Worrell.

I. Call to Order:

The meeting was called to order by Doug Wilson at 9:00 am.

II. Approval of Minutes: March 6, 2025.

The motion was made by John Valenti to approve March 6, 2025, minutes, second by Kris Gubler. Kelly Wilson-yes, Imlay-yes, Valenti-yes, Cox-yes, Kris Gubler-yes, Doug Wilson-yes, Kyle Gubler-yes. The motion carried unanimously.

III. Business:

1. Discussion and Review with representatives from Washington County Water Conservation District regarding the Water Re-Use Exchange Agreement.

Doug Wilson suggested doing an overview of the agreement with bullet points so it's easy to explain what is in the agreement.

Morgan agreed she would do that once they finalized the agreement.

Jeff was concerned that they structured the agreement properly so no one can say they aren't using the city resources correctly. He didn't understand what was being exchanged in order to call this an exchange agreement.

Morgan explained, although it's not what we call the exchange agreement, we consider this an exchange because the city is getting potable water connections reserved for them in exchange for the right use of the surplus water. They'll still pay for those connections but their connections that are reserved for the city. We're using secondary water for the city's getting back connections.

Jeff replied that the constitution requires water for water. He wasn't sure if that meets the requirement to get connections for water. The term connection is something that people throw out that term, and it means different things to different people. And he didn't think it's very well described in this agreement, and there's some inconsistency. He asked Morgan to describe what that meant to them. The word connections.

Morgan explained that the capitalized terms in this agreement, if they are not defined in the agreement, it's under the RWSA, which is in the general conditions in the miscellaneous section. And so, the city is a member of the RWSA. It's new connections as the city knows them and gets them from the district under an existing agreement.

Jeff asked if the end user would get water directly from the district.

Morgan explained if the city is the end user, yes.

Jeff replied he is talking about the homeowner.

Morgan explained it's the structure of the relationship, the pre-existing relationship between the district and the city. The district as a wholesaler and the city as an RWSA partner, just like the other cities that the district wholesales to. And so, the city is getting connections, which they pay an impact fee to the district, and that's how they're getting the water from the district to the city. But it's the city that is approving the building permit and is sending that individual or company to the water district to pay the impact fee.

Zack explained that the water that will be going through the meter located in the first house will be water, the water district is supplying. Essentially what's happening with this agreement is we're going to take this raw water from the city, we're going to treat it, and give it right back to the city.

Jeff replied that to call it an exchange, he didn't think it works, because you're not changing water for water. The other agreement is an exchange. You're at river water, exchanging it with reuse water or other water. That one's clear. This one is still not an exchange.

Zack commented they could change the word exchange if they needed to. The deal is that the water molecule will probably come from a different source for these culinary meters, but the city won't. So sometimes it may be but the majority of the time it's actually going to come from the well the district is drilling. We'll be pumping those wells and supply that water to the city and sometimes it maybe we take this molecule of water and send it through the water treatment plant and pump it back to deliver again. What you're saying about the exchange we can probably tweak that word or combine that word if you'd like to make it clearer.

Morgan commented that she did not agree with that. She was reading the constitution as exchanging water rights or sources of water supply for other water rights or sources of water supply that the municipality determines equally to enable the municipality to meet the needs of its designated water service area. She asked Jeff to explain how it doesn't apply under that.

Jeff replied that because you're not supplying us with water or we're not exchanging water like the other one. You're offering a "connection", which by the way, you still have to pay for. He didn't see how that defines trading water.

Mayor Wilson commented that what they are charging us for is the treatment of the water and to be able to run it through their pipelines to get it back to us. So that's what we're paying for, but we still maintain the water right. We're just putting the water in the reservoir. We pay them to treat it and to deliver it back to us. There's a cost with that and that's the reason for the connection.

Jeff replied that Morgan was talking about culinary water but in the agreement, it says that the district is going to deliver water for the connections to the city's secondary water system.

Morgan asked where it said that.

Jeff replied in section 3-6.

Morgan agreed to change that.

Jeff commented that right now there's 976 feet of surplus water that the city doesn't use through its secondary system that's available and qualifies as surplus water. If the secondary system is rebuilt, there's going to be more

surplus water because we're not going to lose as much water, and there's going to be 1,360 acre-feet. He asked if that is what Exhibit A illustrated.

Mayor Wilson explained as the city grows, these fields that are being irrigated by the secondary water are going to turn into houses, and so there's going to be less water used there. We'll still have secondary water for their outside use, but it won't be as much as they're using now, and so that will increase the surplus water that can be turned into culinary drinking waters for the city. That is part of the calculation from Sunrise Engineering.

Zack agreed they did use that to make the calculation. So, we're assuming that we're down to a certain point that new homes will go to the district-wide efficiency standards to produce their water use.

Mayor Wilson clarified that they will still be able to use the secondary water for outside use in the lower bench, because we're going to build out the lower bench and use the secondary water that we're using now for outside use, so they won't have to use any culinary water outside.

Morgan agreed that it's the goal within your geographical current service area.

Mayor Wilson continued to say that our development on top of the hill will all be ultra-conservative water use, and there will be no secondary water up there. And that would be the most efficient use of the water that we have.

Jeff asked about section 3-A-1 it stated various interests and associated debt, what are the associated debts.

Morgan explained that it's a general term. If there is any bonding that needs to take place, any costs associated with the secondary water system improvement project. So, what we've structured here is that the district is just going to reimburse the city. How we've done with other municipal partners is kind of a simple cost-sharing MOU where the city will get the invoices, we will review the invoices, and the district will also review them. The city will pay for it. The district will reimburse the city. And so, we can figure out that structure. We've done it with Toquerville where it was monthly basis. So, every time the city's paying an invoice, we're then reimbursing you for that invoice. We can coordinate if there's going to need to be any bonding.

Jeff replied that the idea then is these are payments that are reimbursed to the city. If that's the case, he wondered about the provision that the city doesn't use the money to pay for improvements, how would that even be possible if these are reimbursed, not like the district's giving the city money and then the city's going and spending it. The city's spending money and then getting reimbursed.

Mayor Wilson explained that the district is providing the money to the city, so we don't have to get bonding with the lending agency. So, they're providing up to \$13,664,000 for improvements to the irrigation system. and the city will pay the contractor and the engineers for that, and the district will just reimburse us the money.

Morgan added that she is fine to modify or get rid of that section, but she thought it's fair for the district to say, even though it's a reimbursement, the district is not paying the contractor, it's the city. So, the district wants to ensure that our reimbursement payments are going directly to that project and to the district review that invoice, signed off on the invoice, give the city the sum to pay it and then our payment needs to go to that invoice.

Jeff added that this is more of a detail, but he thought they needed to revise that provision as well because right now it basically says that it doesn't require the district to pay anything but gets to keep taking water in perpetuity and that's not going to be acceptable if the district wants to terminate. The remedy would be we terminate the provision and return the agreement the district can seek reimbursement of any money they think was spent improperly but the way it's structured now is not workable.

Mayor Wilson asked how the best way would be to structure that.

Jeff suggested that if the district thinks that the city didn't use money correctly, they will terminate the agreement and they go after the city for whatever money they think the city misspent. To say that the district in its own, in its sole discretion gets to stop maintenance but keeping the water forever, that doesn't work.

Morgan agreed to the red lines he proposed if he made the changes.

Jeff continued to say as far as the perpetual nature, he thought that's something they would have to think through as well. Again, to make sure this passes muster and isn't challenged. He thought there's got to be some sort of time limit on that. Maybe there's a mathematical way to figure out basically how long it takes for this agreement to be in place, so the district gets its money worth out of it. He thought someone could try to challenge it if it's in perpetuity.

Morgan replied it has to be perpetuity because the city is being promised the connections from the district and, so therefore we do this agreement and, and the city says "you don't get our surplus water rates anymore" well we've given you connections and so it is an exchange and therefore it needs to be perpetual because the city is going to be guaranteed to get all the dollars because we have a bunch of connections and all of a sudden you don't have those connections anymore.

Kyle Gubler added that the city is guaranteed the millions to complete the project.

Morgan continued to explain that the build out that Sunrise Engineering put together there's not a date to that build out and where the district hasn't come in and said give us a date which in her opinion was pretty generous of the district so therefore it does need to be perpetual.

Mayor Wilson added in the end we'll get to use all the water. We put some figures on what it's going to be and it could be anywhere from 2300 connections to 3200 depending on how they're lasting and how the ultra-conservative landscape works.

Morgan suggested they will add some illustrative language there. This is how we'll figure out the connections based on the level of service being provided and the impact fee being paid.

Jeff asked if the State determines the level of service.

Zack explained that The Division of Drinking Water comes in and basically says, we submit reports to the Division of Drinking Water. They come in and set the standard. And it's changed over the years. It used to be as high as one acre, it went to .89 acres, and even when we came down to .59 acreage per connection. That's when we went to them and negotiated with them for La Verkin. They can come out next year with a new rule. We just have no control over that. We have the right to go to the .59. We are working with them to give us .39, they haven't given us the official's thumbs up, but they said it looks positive, and they feel very good about it. So, we're just waiting on that .39 here very shortly. And the state has been excellent to work with. They have been phenomenal, working with us, very collaborative, very open, and so we have a good relationship. It's one of those things, since we don't know, we put some language in there and this is what we think it is right now, but, if the state says something's different, we'll just get up to that, both parties' kind of agree that's what it'll be.

Mayor Wilson added that the ultra-conservative, the .39, and that's what the county's working towards right now, and that's what we would, as a city, would go towards, especially if we do the development of the Topside, because we want to keep that ultra-conservative up there. They extend 12 waterways available as far as we can

tell. And that would, by all projections, that would be pretty much built out of there. And we still have some water rights in the Springs that we can continue to build out on the bench, but there's not enough there to completely build out down here on the bench. So, we'll rely on the district to provide water for the rest of that, too. We're almost to the point of where any new building, we'll have to get water from the district. What we're doing here with this exchange is providing water to the district that they can treat, and we still have the right to it, and use that for our build out.

Doug asked the day we signed this agreement if the surplus water now became available. So, it's going down the stream, going down the river, going into Sand Hollow and Quail Lake. But you're not allowed to use that to commit any new connections anywhere else in the county or in the water districts area other than La Verkin City.

Morgan agreed and she said we're not coloring the water molecules and tracking the water molecules, but we're doing the math.

Doug commented that they can use the water anywhere they want to, but we still have the right. They can use it, but they can't commit it. They can't take it out of their block of water rights, or their block of residential connections that you have so many, X number until the district runs out of water, basically. You cannot use it in those calculations because it belongs to La Verkin City only.

Morgan agreed that it was a fair way of putting it. When we're looking at our water supply portfolio, this isn't grouped in the same way with that portfolio.

Doug wanted to make it clear in the agreement.

Mayor Wilson added that was a problem one of the council members had. When we were talking about, they haven't even gone through this agreement as far as the council goes, that was an objection that one had. He commented that once the district gets the water, what if they used it all up, how are we going to get that back?

Morgan replied that the water rights stay with the city. The water right does stay in the city's name, so that's a very important distinction. It's never the water district's water right.

Doug added the water right stays in our names, but we've committed it to the district in exchange for treatment, delivery, and connections. He had another question, so let's say we have 100 acre feet of irrigation, do we get 100 acre feet of culinary connections?

Morgan explained it is based on the level of service. She looked up section 3B-3 for that. It depends on what is the level of service at the time of impact fee payment. Is it the normal level of service or the ultra-water-efficient level of service?

Doug asked when you say level of service, talking about like right now, it was .59.

Morgan replied now it's .59. You have the option to do .39 in the future. So, it's the ERC designation.

Doug asked is .89 for indoor-outdoor. What's it for indoor only?

Morgan replied it's .59 now. She asked Zack if they distinguished between indoor and outdoor.

Zack explained the state kind of does that, but people generally ask. Usually what the state did with the .39 ultra-water-efficient standard it's usually coming in just indoors, it's about 0.3, between 0.3 and 0.35.

Dough clarified the .89 is gone. We are working with .59 and .39.

Morgan explained that 0.39 is an option in the future.

Mayor Wilson asked if that's the 3487 connections is 0.39, if you went that way. And it probably would be between the two.

Morgan replied she thought for each city, that's going to be realistic. They'll use a mixture of them.

Doug continued this could be 0.3 to 0.35, because we're going to have secondary systems put in for outdoor. For the ones on the lower bench. Then the upper bench doesn't have secondary systems. So, in reality, we're going to be 0.3, 0.35 for all these connections.

Mayor Wilson asked if the 0.39, that's counting outdoor too. Well, they'll have to use some outdoor use if they want to have plants and stuff like that.

Doug summarized that the secondary water would not be on the bench. The topside. They would be using culinary water for outside use and that would be limited.

Mayor Wilson explained that's what the .39 is for. That limits what they can do outside. And this is all for all new growth.

Doug clarified based on the .39 there will be 3,487 connections approximately.

Morgan explained we'll keep a ledger, and then we'll meet each year to discuss what type of connections, what are sold, and where we are at now.

Jeff had another question on 3B4, that the city shall not reserve new connection for future use? What is that intended to mean.

Morgan explained what we're saying is that once this agreement is executed, the new connections that the city has are going to start ticking off this list for the surplus, the district's use of the surplus water. So, what we don't want is that the city is like, oh, no, this isn't from the surplus water. You just have to start using it right away.

Mayor Wilson asked what about the spring water from Toquerville and the Ash creek spring.

Morgan explained that water is outside the scope of the agreement. That is city water. This is water from the district and after the agreement it will come off the ledger that you are using it. It doesn't come off the ledger if the city is doing it themselves.

Doug asked if they must pay an impact fee on every connection that the city does.

Blaire explained if they got the water from the lower tank that it is not the district water.

Zack explained and that kind of goes back to that ledger. He looked at what water rights the city has right now and how it's being used. And that's just one of those things that we just did. Is that right to your master plan? We can look at your water that's coming at that point and also look at your screens and how much you're demanding. We can pass it down to that calculation.

Morgan wanted to clarify that We're saying that the new connections, as part of this agreement are in relation to surplus water rights and not city-owned water rights. Then we sit down each year and just kind of figure that out. This connection we can say is city water. This connection we can say goes to surplus water that the districts use from the city.

Zack explained that all the cities right now have effected water rights in their portfolios. And what we've done with that is that whenever a city building is constructed, we don't charge impact fees for those. So, if you were to build a new city hall, a new recreation or something, we don't even charge you impact fees because we're all assuming that cities do have a little bit of water in their back pond. But with you guys, we can sit down and do a more formal calculation of where the water's going.

Mayor Wilson commented we are getting close to using all our rights in the springs. We still have a little bit left in there, and eventually that'll be used up with development here on the bench.

Blaire commented they could supply everything the city currently has.

Kyle added once we don't have enough when all the fields are built up. That's when they start coming off the district's checklist. And go over that yearly with the district.

Morgan agreed it's yearly, but they could do more if needed.

Doug gave an example if the city offered to buy the citizens grass to do desert landscaping at their homes, so they fall into the .39. Now we've got that water, it's in our springs, and we can reapply it. This is completely outside of what the water district's doing. We have that right and have that ability. We need to keep that ability so that we can extend our water even farther if we want to.

Kyle asked if he meant citizen watering outside with culinary water.

Doug replied yes within the city, that are on the current springs water system. There's not that many right now that do it. He suggested we don't want to be locked in that every new connection. We need to have some type of ledger.

Jeff commented that with this connection, these types of ledgers, he wanted to make sure we're careful with this because one of the distinct of the city, so the springs only produce a certain amount of water and so there's the peak flow that's really the limitation of the city. In the winter months you don't even pump that one spring, it just kind of goes down. And you just don't need it. So, part of what the district is bringing is during those peak seasons we are pumping both, springs. He suggested they look at the acre foot inch for the whole year but we also need to look at what is the peak of what the system needs. And that's where it seems like the more of the limitation is for the city right now is those peak summer months. He wanted to make sure they include both of those in our calculations.

Blaire commented they used that in the calculations in the master plan. We have a calculation for the source capacity using peak demand.

Doug suggested they make a change in the name of the agreement from the word "exchange".

Jeff agreed that this title is a surplus water agreement but then has hints of an exchange agreement. It's kind of like the contract isn't quite sure what it is right now. He is going to work on solving that.

Morgan didn't agree. She thought the definition in the constitution would make this an exchange, but she would defer to the city's attorney. By allowing the issuer to use the supply, you're getting another supply back. That follows the definition of exchange. She agreed to let them all talk about that and come back with what makes sense.

Jeff also had questions about water rights. On the list of water rights, water right 812-777-1640.22 acres. It should be 1630 not 1640.22.

Morgan asked what the master plan stated.

Blaire agreed it was 1630.

Jeff asked about the third waterway. He didn't know if that counted since it went to the large research facility.

Derek explained they found out they no longer use that water at the test site, so La Verkin has the right to it now. They needed to get it changed back to the two points of diversion.

Jeff wanted to know when they stopped using it.

Mayor Wilson replied they didn't know when they stopped using it. He would contact the contractor in Virgin to get that answer. The pipe isn't even in the ground anymore. They have been using separate spring water.

Morgan explained for purposes of the surplus, it's Exhibit A that's really telling us what the new connections are. Exhibit B is important to list all the water rights. She agreed to make the change and add the third water source once she gets the information.

Doug asked about the priority of culinary water rights. If it follows the same laws as secondary water priority. He wanted to know if the 1890 water rights are hooked to the culinary water.

Jeff replied they did. The priority is the same.

Doug gave the example if the state comes by and says you don't have priority after this date because Because we're in a five or ten year drought because they're going to affect our culinary water delivery.

Jeff asked if he meant the culinary water out of the wells.

Blaire explained that you're saying basically because the district's going to be providing you culinary water not from your delivery point essentially it could be coming from cotton well. So we got into a drought situation the state engineer came by and said you can't use water. After this date and that date the district doesn't have any priority and is not able to turn that well on. Would you be able to get culinary water.

Jeff replied that the priority date goes with the water rights source. So, it depends on what the water rights are that are associated with that source. If there's a source that has a date, the only water right that has a late priority, and the division comes around and says, due to priority, you've got to stop using it, then you've got to stop using it.

Blaire asked if the district would be able to provide the water from Cotton well using the priority date and the water right from the river? He thought it's not.

Jeff replied to it wouldn't change the application of the well source.

Morgan replied with your secondary water right, we have in the reuse water exchange agreement the change application section, and that's where we're going to coordinate. The water right is going to stay in the city's name so therefore the city will be doing the change application, but the district will be helping and we're going to change it so that it can be used as municipal and industrial so indoor drinking water in the service area of the county and then the water right priority date stays the same.

Jeff asked if the change application is going to any sources or is it going to just have the Virgin River as the source.

Morgan replied that they would need to figure that out. For them it's going to be what's the most operational flexibility to get that water back to La Verkin and so that's going to be a question.

Zack commented that most likely we'll just stay with the Virgin River because it's an easier change application but, we're building our infrastructure right now this water going through our lake, and then through our water treatment plant often to the product system. One of the things, let's say we have a really, really severe drought. One of the things that we're building into the system right now is different operations that we can move water. So, when this is all done, when our infrastructure is put in, we literally take water from Sand Hollow. So, we've stored a lot of water in the Sand Hollow Reservoir. We can take water from that Reservoir; it's just going to be a much more dynamic system going forward. So, we do have that severe drought, and the state engineer starts and says, okay, you need to start back to your water rights. Right now, we're in that situation, so we always have drinking water. We can't shut houses off.

Doug wanted to make sure we can still tap into the 1890 right if we get into the 10-year drought. We would be able to get it from the treatment plant.

Jeff had questions about section 3E is trying to say the city shall use commercially reasonable efforts to cause secondary well rights for the districts use.

Morgan explained that the district is trying to ensure that since it's providing reuse water, other district water supplies to the city, that the city is not doing anything that impedes the ability of the district to get the Virgin River water in exchange.

Jeff wants to tweak the language because it sounds like any water we don't use goes to the district. This almost seems like the language that would be in the last agreement, which is about surplus water. This provision makes it so that the district gets all of our surplus water, not exchange water. We're talking about getting this agreement as we're giving Virgin River water and we're giving reuse water.

Morgan replied the secondary water is not diverted as a result of the exchange. So, yeah, we can connect it specifically to the exchange of this agreement.

Jeff asked about the change application provisions, again, we don't have the change application to look at. Right now, it says that to allow the full volume of the water rights used for the district's water system and service area. What that's supposed to say is the water can be used in the city's water system and service area and in the district's water system and service area. That way both of us can use it.

Zack replied that the service district covers the city, but they can add that language if they want to.

Jeff commented he thought it'd just be that both of us can use it for municipal use within our respective service areas. It seems like we get the service area like the actual area, but you also have to put what the use is. And so,

the use would be municipal use for the city and municipal use for the district. In 4E it says the city is required to do all the paperwork to keep the change application is good standing. He wanted to clarify, is that the city to pay for all of that?

Morgan replied that the district would pay for the filing fee for the change applications.

Jeff commented that the name would be the city. He wanted to make sure everybody is on the same page that the city, the way it's worked right now, the city will be responsible for paying all the costs to prepare and file those things.

Morgan asked Jeff to explain what costs he is talking about.

Jeff replied to keep the change application in good standing, and extension requests filed and possibly at some point proof beneficial use so we're not huge amounts of money at least for the extension request and the extension requests are too much to create and cost you know a couple hundred dollars to file every, five to ten years when it comes time to final proof you know that's a bigger amount.

Morgan asked if the city was already doing those things for their water rights.

Jeff replied that the city's water rights are protected now. The city will only have to do a new change applications file to keep the change application good standing so these will be new obligations.

Morgan asked if the change applications are creating these obligations.

Jeff replied that yes, they have to hire an engineer to make the change orders. His opinion was the city wouldn't be filing them if it wasn't for the agreement so they shouldn't incur all the cost.

Morgan replied that the district would pay for that, but the city would have to file it because its in the city's name.

Jeff asked about section 6A, the municipal system, he wasn't sure if that was intended or if that was supposed to be secondary system.

Morgan replied that it is backwards. It should be Municipal in the second.

Jeff asked about section 8. It says if this agreement is tied to any necessary documents to restore respected ownership. He wasn't clear on what that meant. Because ownership is not changing. Change it to the parties will execute any documents to withdraw the change application. He doesn't think supporting ownership is necessary.

Morgan agreed. She has been taking notes as we've been going through. She would send red lines back to this group based on the discussion today. And then if Jeff still has some concerns or some other they can go over them, but we haven't really thought through edits, so you're not going to see changes on that. But if you can just add to those red lines, that would be awesome.

Kyle asked them to include Fay in that email. So, when they all meet, they have the updated version.

Morgan commented she would by the end of tomorrow, she would get those out. So then when you review next week, you at least have some of the things that we need and know we were going to change today.

Doug asked them to create a bullet point list so they can explain it easier to the public and the city council.

Mayor Wilson arranged for another Water Board meeting on July 3rd at 10:30am.

IV. Adjourn:

The meeting ended at 10:10.

Minutes were taken by Nancy Cline.

Chairman

DRAFT

City of La Verkin

435 North Main St., La Verkin, Utah, 84745

(435) 635-2581 Fax (435) 635-2104

www.laverkin.org

LA VERKIN CITY WATER BOARD MINUTES

Thursday, July 3, 2025, 10:30 a.m.

435 North Main Street, La Verkin, UT

Present: Kelly Wilson, John Valenti, Kris Gubler, Kyle Gubler, Derek Imlay, Kyle Lovelady, Fay Reber, Nancy Cline, Paul, and Blaine Worrell.

I. Call to Order:

The meeting was called to order by Kelly Wilson at 10:30 am.

II. Business:

1. Discussion and review secondary water rate increase with sunrise Engineering.

Paul explained that the shareholders are all assessed an assessment fee once a year, and that's \$50.89. And then they are charged about \$25.45 per share for the first share. And then for every additional share thereafter, a \$12.72 charge biannually. It's basically just \$25.45 per share but for shares greater than one you pay it bi-annually. At the existing number of lease users and shareholders which is 808 right now lease users that's in the top portion of the table on the left hand side the average fee is about \$13.02 a month or \$117 a year for leases and then for contract holders about \$89.50 a year or \$9.93 a month that's what everyone's paying right now but at the current costs to the system they're being subsidized by the general fund. These rates and fees collected amount to a deficit of \$118,000 a year and that's against the next year's fiscal year 2026 anticipated expenses. We've assumed for going forward that we've increased the expenses by 20%.

Kyle asked if they took into consideration that annual payment is only about \$11,000 or \$12,000 as opposed to that \$112,000?

Paul replied they did take that into consideration. The proposed rate adjustment is on the right hand column and the easiest way to summarize it is just to look at that far right column where we have percent increase from the existing fee, it's essentially an 88% increase to all of the usage rates and then the assessment fee on the contract holders will have to increase by 175% in order to avoid any deficit and break even there. So that works out to be a one-time assessment fee of \$140 for contract holders and no assessment fees for lessees. The average number of shares held by a delivery contract holder is 1.5 and so that's how these averages are calculated right now and that's just pulled from last year's rate tables and billing summaries. That works out to a \$140 one-time assessment fee and then an annual adjusted fee of almost \$48 on average for contract holders and about \$212 a year for contract holders. Meanwhile for leases it's about \$24 a month on average and that's based on lot size and an average annual fee of \$220. On average lessees will pay about \$8 more than contract holders. Down to the bottom, that right side table, we've seen a cost share breakout between lessees and contract holders, and the lessees' pay, just due to the magnitude of the number of them, about 74% of the total costs of the irrigation fund budget, and contract holders, the remaining 26. This does not include standby fees, because we're assuming that after we get the new improvements up and running, that we're going to have a lot of converts from standby that connect to irrigation.

Mayor Wilson asked if they knew how many were not connected to irrigation.

Paul explained they have 290 billed for standby fees.

Derek explained that it is the correct number. That 290 have the ability to be connected to irrigation but are not hooked up.

Kyle Lovelady added that there's also a small area of town that doesn't have the ability, so they are not charged a standby fee.

Paul explained they can take the number of culinary users and subtract the standby users and come up with the number.

Kyle Lovelady added if we made the improvements we would have irrigation in places that it doesn't have it now and then you could essentially have your lessee number jump up 600.

Fay asked how many users there are.

Paul explained there are 808 leases and currently 292 contract holders.

Mayor Wilson asked the board members what they thought.

John Valenti commented that he understands we have to do something to raise the rates and, as long as it's done fairly, he agrees.

Kris Gubler added that if we're in the deficit, we can't run that for very long.

Kyle Gubler added that we've been told by the accountant and our auditor that your irrigation funds have been running in the negative and have been supplemented by the general fund. And you can do that, it's just not recommended for very long. It's been doing it for several years. There for a while we had money from the canal company and there were some savings that we used.

John commented that basically doubles the costs.

Mayor Wilson explained that people leasing water for \$13 bucks a month is on average and now it would be \$24.

John asked how that compared to culinary rates.

Kyle Gubler replied that's the thing is you can't ever have secondary rates be more than culinary rates. The culinary rates are going up too.

Mayor Wilson added that the average rate is \$45 dollars a month.

Kyle Gubler explained it has to be lower than culinary, or people will use that to water their lawn.

Kyle Lovelady added that the tier rate structure on the new culinary rate is going to make people want to switch to this.

Kyle Gubler explained that it takes effect after it goes to the city council. We'll probably go through this every season of the year. It'll be next March.

John asked if it was a one-time rate hike or would it be tied to cost of living or inflation.

Mayor Wilson explained they didn't build in an inflation rate, but they would revisit it next year.

Paul added the master plan is due every five years. We do, on the cash flow summary, assume 3% inflation.

John added that new users would increase the amount collected.

Kyle Gubler added this also takes into consideration replacement. There will be a small amount, but we'll decide on a replacement cost in the future

Mayor Wilson added if we get this contract through the water district, they will pay for the upgrade in our irrigation system which will cut down on maintenance quite a bit once we get that in.

Kyle Gubler recommended the board at some point with the new system we will have the ability to provide water, but we thought maybe it only goes for 10 months there's really no reason, take it out December 1st put back in, February 1st and that would give you one more month of billing.

Paul agreed. These numbers are based on a nine-month schedule so they would increase.

Mayor Wilson asked if the waterboard would pass something like this to the city council.

John Valenti and Kris Gubler agreed they would.

The motion was made by Kyle Gubler to recommend the rate structure to La Verkin city council, seconded by John Valenti. All are in favor. The motion passed unanimously.

Kyle Gubler explained that the council would determine whether it takes effect at the beginning of next year building cycle March 15th.

Mayor Wilson added that if all of this gets worked out with the water district and replacing the system that'll probably start taking place next year.

John Valenti asked if they were doing a major trunk arrangement and going from there.

Kyle Lovelady replied that it's probably not going to take full effect as far as the reuse until the middle of 2026. Depending on when and how fast they can build the pond and how fast they can build the pipelines that feed it. Then how fast can we build pipelines to get the water back to where we can maintain current pressures through new lines. The construction that we have to do there's quite a bit that has to happen, and so it's going to be really interesting next year's irrigation system season.

Kyle Gubler asked if anyone had talked to Dave Jessop about the filters.

Derek replied they did talk to him.

Mayor Wilson added they could keep the system running even with the construction.

Kyle Lovelady replied that's the plan. We want to try and keep everything of the old system as separate as long as possible. He didn't think until that branch that goes into the filters, we'll be able to keep that going. The last thing we'll do is where we separate off of the district line. That kind of figure in how construction is going to go. It might be September or August next year.

Derek Imlay added that if anybody wants to stick around, Blaine's going to be here in a minute. And he's going to show us the plans. They could get a better idea of some potential timeframes because the plan design right now is close to 30%.

Kyle Lovelady added by the time they go out to bid, we anticipate them breaking ground probably in January or February. That's for the district's line to get the Virgin River water to the pond and the reuse water to the pond.

Mayor Wilson replied we probably want to get this surplus water agreement and the reuse water agreement through city council before the rate increase for secondary water. He asked if they could get this ironed out and done by August, is that a possibility

Fay replied probably not because after Jeff gets done with it, he's got to go back to the water district, and there'll be some additional tweaking

Mayor Wilson asked Paul how long it would take to get the plans.

Derek Imlay explained they hoped to run both projects at the same time, that because they're already mobilized here, the cost reduction would help.

Kyle Lovelady suggested it might come off easier if you do the rate increase when people aren't paying for irrigation too. If we came in when it's out of the ditch, it might not have as much outcry with public hearing.

Mayor Wilson explained we haven't had any rate increase in many years and people need to understand they have to maintain the pipes and with inflations there needs to be an increase.

Paul added they are one of the cheapest irrigation rates.

Kris Gubler added there are always people who complain when there is a rate increase.

Blaine joined the meeting at 11:00.

Mayor Wilson explained to Blaine that they discussed the increase rate and motioned to send it to the city council. They would like to see the renderings for the pond.

Blaine explained the pond is in the cottonwood hollow subdivision. Then we got pipelines to feed it. The distribution is from the new water plant.

Kyle Gubler added the Water conservancy district is going to make it somewhat of a recreational type of area.

Blaine replied that the water district isn't concerned there could be a trail there. They do not want to maintain any part of it.

Kyle Gubler replied if the city wanted a city park, we would have to maintain it.

Kris Gubler asked how big an area it would be.

Paul replied that it would be 2 acres of water area and a depth of twenty-four feet. There will be a ten-foot-wide paved trail.

Derek added around the dark the lighter blue and pink this is the pump station That'll be our maintenance our responsibility. The district has another square to the north of the district for an add-on.

Kyle added that the people in town are going to notice a significant improvement in the water quality they're going to get through the reuse water. He asked how often people cleaned their filters.

Mayor Wilson, Kris Gubler, and Kyle Lovelady replied they don't run theirs with a filter.

Kyle Gubler asked how many building lots did Interstate Rock have to give up for the pond.

Blaine replied that the water district is doing a swap with them.

Derek added that there's also going to be some provisions that we're bringing up to the City Council. We're letting them dig into, if we deem it hillside or not, digging in more to the hillside to get some of the lots that they lost due to this.

They discussed how the district cleaned the pond.

Blaine explained they are running a 24-inch PVC and an 18-inch ductile. The conservancy district runs the ductile pipe from Confluence Park to the pond, and then from 500 North to the pond.

They explained the 24-inch pipe location and that was the cities line.

Blaine showed the plan of irrigation replacement. They discussed the lines being replaced.

They all discussed how citizens would get the irrigation from the front yard to their backyard. The citizens who originally get it from the backyard and they take that away. It could be expensive to run the line through their yard. There could possibly be a provision for some financial assistance in those instances.

Derek asked Fay what his opinion was on if they moved the existing system and if the citizens have to pay to get it back. The last city attorney advised if the city changed the way it delivered water, then they needed to assist the citizens in getting it back to their original area.

Kyle Gubler could sympathize with the citizens getting upset that the city changed the delivery of water and they have to spend money to get their irrigation water back online to their homes. The people could have some legitimate reason to complain

Derek agreed there needed to be some expectations and assistance for citizens.

Kyle Lovelady suggested they need to decide the standard size of pipe they can use to irrigate. What size of connection the lots have. They will have to go to each individual property and ask where their connections are and where they should put it.

Derek replied that Hurricane put a stake in every yard where they would be getting irrigation and it was up to the homeowner to get a line to that spot.

Blaine added they could make a little in-house sheet of paper for everybody's yard that you're messing with, and you give it to them. Basically, what it does is it gives permission to go on their property if you need to, like, do anything with the back lot lines, disconnect, or install it somewhere, and basically, one gives you where they want it, so then it acts like an easement agreement, and you have permission to get on there. He didn't know if the district would pay for it, but you could have the contractor do the line. They have 170 connections.

Derek added that's if you did a thousand dollars per 170 connections that'd be \$170,000. He thought that price of a thousand dollars to run trench and run a pipe should be fairly reasonable. He asked if the city could come up with that money. They need to consider it.

Kyle Gubler suggested the money they collect from the new system could help offset that expense. They won't know the cost until they decide how many will need a new connection.

Kyle Lovelady added if they had a backyard connection, they ran some type of tap or like something up front, because then you're only running to that tap because that's where the supply line would be. It would be separated from the sprinklers. But if they don't have that and they have their irrigation box right here next to the shutoff valve, then you've got to go clear through their place and put back their landscape how it was.

III. Adjourn:

The meeting ended at 11:20 am.
Minutes were taken by Nancy Cline.

Chairman

DRAFT

SURPLUS WATER AGREEMENT

This Surplus Water Agreement (“**Agreement**”) is entered into this ____ day of _____, 2025 (“**Effective Date**”), by and between Washington County Water Conservancy District (the “**District**”), a water conservancy district organized under the Utah Water Conservancy District Act and a political subdivision of the State of Utah, and La Verkin City, a municipal corporation and political subdivision of the State of Utah (“**City**”). The District and the City may be referred to herein individually as a “**Party**” or collectively as the “**Parties**.”

RECITALS

- A. The City has ~~several~~ three water rights from the Virgin River that the City currently uses to serve its irrigation service area.
- B. The infrastructure that is used by the City to deliver Virgin River water to the City’s irrigation service area is aging and in need of repair or replacement to minimize water loss.
- C. The District is willing to provide financial assistance to the City in making necessary improvements to its irrigation system consistent with the terms and conditions of this Agreement.
- D. In exchange for receiving such financial assistance, the City is willing to allow the District to use the City’s surplus Virgin River water, including the water savings realized from the improvements made to the City’s irrigation system and from future changes in water use, so long as the City receives an equivalent number of New Connections from the District and other consideration provided in this Agreement.

AGREEMENT

NOW, THEREFORE, in consideration of the foregoing recitals, the mutual covenants and agreements contained in this Agreement, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties agree as follows:

1. **Recitals.** The above-referenced recitals are incorporated into this Agreement by this reference.

~~2. **Exchange.** The Parties acknowledge and agree that this is an exchange of water rights or sources of water supply for other water rights or sources of water supply that the City determines will equally enable the City to meet the needs of its designated water service area as contemplated under the Utah Constitution, Article XI, Section 6(2)(c).~~

Commented [JG1]: I don’t think this is an exchange, and I certainly don’t think we can title it a “Surplus Water Agreement” and then say it is an exchange in the text.

~~3-2.~~ **District Obligations.** Subject to the City fulfilling its obligations under this Agreement, the District shall have the following obligations under this Agreement:

- a. *District Financial Assistance.* The District will contribute up to a total amount of thirteen million six hundred sixty-four thousand five hundred dollars (\$13,664,500) to the City’s Secondary Water System Improvement Project (defined

below), subject to and consistent with the terms and conditions of this Agreement, including the following:

- i. *Payment.* The District shall make ~~reimbursement~~ **payments** to the City for the Secondary Water System Improvement Project. For purposes of this agreement, “**Secondary Water System Improvement Project**” means improvements to the Secondary Water System (defined below) mutually agreed to by the Parties and associated debts.
- ii. *Use of Funds.* Payments from the District to the City under this Section 3(a) must be used by the City to pay for necessary improvements to the Secondary Water System Improvement Project, and for no other purpose. The District shall have the right to verify whether the City has complied with this provision at all times. If the District discovers that the City has not complied with this provision, ~~the District~~ may, in its sole discretion, terminate future payments towards the Secondary Water System Improvement Project.
- iii. *Cessation of Payment Obligation.* Once the District has paid the total amount identified in this Section 3(a), or if the Secondary Water System Improvement Project ceases, or if the District has terminated future payments pursuant to Section 3(a)(ii), ~~the District shall have no further payment obligation.~~
- iv. *Perpetual Use.* The District shall have the **first** right to use the **surplus water** ~~water savings~~ realized from the **water savings of the** Secondary Water System Improvement Project and from future changes in water use in perpetuity.

b. *Delivery of New Connections to City.* The District shall provide to the City New Connections from the District’s System, subject to and consistent with the terms and conditions of this Agreement, including the following:

- i. *Surplus Secondary Water Rights.* ~~The Surplus Secondary Water Rights identified in Exhibit A, which is attached and incorporated herein by this reference, shall not be reduced without balancing the ledger of New Connections provided under Section 4 of this Agreement. The Surplus Secondary Water Rights identified in Exhibit A, which is attached and incorporated herein by this reference, shall not be reduced and represents a full and fair exchange of water between the City and the District. For purposes of this Agreement, “Surplus Secondary Water Rights” means the difference between the total amount in acre-feet of the City’s “Secondary Water Rights,” as identified in Exhibit B, which is attached and incorporated herein by this reference, minus the acre-~~feet~~ amount used by the City for the Secondary Irrigation Area and minus the acre-feet exchanged with the District under the Water Exchange Agreement, or the~~

Commented [MD2]: The district is happy to pay the City directly to immediately pay the vendor or to pay the vendor directly. We can memorialize the City's preference in a separate, simple MOU.

Formatted: Highlight

Formatted: Highlight

Commented [KW3]: Reverting to the original language, which was intended to allow the District to terminate payments, but still receive the surplus water, in recognition of the fact that they are providing connections and will have paid at least some money to rehabilitate the City's system at that point.

Commented [KW4]: Same comment

Formatted: Font: Bold

Formatted: Highlight

Commented [MD5]: Adding back in. Thanks for catching this, Jeff!

~~amount identified in Exhibit A, whichever is greater. For purposes of this Agreement, "Secondary Water Rights" means the City's water rights as identified in Exhibit B, which is attached and incorporated herein by this reference. The anticipated Surplus Secondary Water Rights are identified in Exhibit A, which is attached and incorporated herein by this reference, and the Parties will use reasonable efforts to allow these estimated Surplus Water Rights to be used by the District each year under this Agreement shall not be reduced and represents a full and fair exchange of water between the City and the District.~~ For purposes of this Agreement, "**Secondary Irrigation Area**" means the current amount, at the Effective Date of this Agreement, of irrigated landscape, garden, or agriculture areas associated with residential, commercial, agricultural, or industrial uses that can be reliably and regularly supplied by the City's Secondary Water System as of the Effective Date of this Agreement, taking into account leakage and other system losses. For purposes of this Agreement, "**Secondary Water System**" means the portion of the City's municipal water system used to receive, convey, store, and deliver water under the Secondary Water Rights that is (i) currently owned or operated by the City; or (ii) to be hereafter owned or operated by the City.

- ii. *Secondary Irrigation Area.* After completion of the Secondary Water System Improvement Project, the City shall not expand the geographical boundaries of its Secondary Irrigation Area as identified in Exhibit C, which is attached and incorporated herein by this reference.
- iii. *Number of New Connections.* The number of New Connections available to the City shall be based on the Surplus Secondary Water Rights and the Level of Service for each New Connection at the time of Impact Fee payment. To illustrate, given the Surplus Water Rights at buildout as identified in Exhibit A, the District would provide to the City two thousand three hundred and five (2,305) New Connections based on the Level of Service at the Effective Date of this Agreement, three thousand four hundred eighty-seven (3,487) New Connections based on the ultra water efficient Level of Service at the Effective Date of this Agreement, or an amount of New Connections in between the two. The City and the District acknowledge that the Level of Service is determined by the State of Utah. The City and the District acknowledge and agree that the number of New Connections represents a substantially equivalent volume of water to the City in consideration of the Surplus Secondary Water Rights being provided to the District.
- iv. *Ledger of New Connections.* The Parties shall work together in good faith to establish a system, such as a ledger, to account for the total number of New Connections provided by the District to the City pursuant to this Agreement. Upon the Effective Date, the City shall immediately draw upon the New Connections as the City approves building permits development as

set forth in Section 8.9.1 (Impact Fees) of the Revised Regional Water Supply Agreement dated January 1, 2019, as it may be amended and/or renumbered from time to time. The City shall not reserve the New Connections for future use.

Formatted: Highlight

Formatted: Highlight

Formatted: Highlight

Commented [MD6]: Modified to be consistent with RWSA

v. *Impact Fee.* The Impact Fee shall be paid for each New Connection by the landowner/developer. Once the Impact Fee has been paid for the New Connection, the City will be entitled to the resulting number of Equivalent Residential Connections.

Formatted: Highlight

Formatted: Highlight

Formatted: Highlight

Formatted: Highlight

Commented [MD7]: Added based on expressed concern of number of New Connections being reduced after Impact Fee payment.

vi. *Delivery Location.* The District shall deliver water for the New Connections to the point(s) of delivery from the District's System to the City's Secondary WaterMunicipal System (collectively, "Delivery Points"). Exhibit D, which is attached and incorporated herein by this reference, identifies (A) each Delivery Point and (B) distinguishes between the end of the District's System and the beginning of the Secondary WaterMunicipal System.

Formatted: Font

Formatted: Font: (Default) Times New Roman, Ligatures: None

Formatted: Left, Indent Left: 0.5", Space After: 8 pt, Line spacing: Multiple 1.16 li, No bullets or numbering

Formatted: Indent Left: 0.5", First line: 0.5"

~~vi.c. *Annual Payment for Surplus Water Consideration.* For the first 40 years of this Agreement, the District's financial assistance provided under Section 2(a) of this Agreement and the New Connections provided under Section 2(b) of this Agreement shall represent fair and full consideration for the District's use of the Surplus Secondary Water Rights—provided that the District's financial assistance equals thirteen million six hundred sixty four thousand five hundred dollars (\$13,664,500). Beginning 40 years after the date of this Agreement, the District will make an annual payment to the City for use of the Surplus Secondary Water Rights. The amount of the annual payment shall be jointly determined by the Parties based on the then-existing market conditions and other relevant factors, and the Parties shall meet and adjust the annual payment amount every ten (10) years thereafter. If the Parties are unable to jointly determine an annual payment amount, then the Parties shall engage a third-party mediator to assist the Parties with the determination. If the Parties remain unable to jointly determine an annual payment amount, then this Agreement will terminate. If the District provides less than thirteen million six hundred sixty four thousand five hundred dollars (\$13,664,500) in financial assistance, then the 40-year term provided in this section shall be reduced proportionally.~~

4.3. **City Obligations.** Subject to the District fulfilling its obligations under this Agreement, the City shall have the following obligations under this Agreement:

a. *Delivery of Surplus Secondary Water Rights to District.* The City shall use reasonable efforts to make available to the District the full quantity of the Surplus Secondary Water Rights in perpetuity, in consideration of the District's obligations herein. The Surplus Secondary Water Rights shall be in addition to any water provided under the separate Reuse Water Exchange Agreement.

- i. *District's Diversion of Surplus Secondary Water Rights.* In a calendar year, the District has the right, in its discretion, to divert up to the full quantity of the available Surplus Secondary Water Rights.
- ii. *District's Use of Surplus Secondary Water Rights.* The District shall have the right to use the Surplus Secondary Water Rights anywhere throughout its drinking water system, as approved by the Change Application as that term is defined in the separate ~~Reuse~~-Water Exchange Agreement between the Parties.

~~5.4.~~ **Coordination.** Prior to April 1st of each calendar year, the District and the City shall meet to coordinate regarding the terms of this Agreement, including balancing the ledger of New Connections and the amount of Surplus Secondary Water Rights deliveries from the City.

~~6.5.~~ **Reasonable Efforts.** The City shall use commercially reasonable efforts to cause ~~sufficient water under~~ the available Surplus Secondary Water Rights to be delivered for the District to use ~~its Surplus Secondary Water Rights.~~ Neither Party shall be in default under this Agreement if such water is not available due to physical or legal water availability such as drought; weather and climate conditions; administrative action by a Governmental Authority, including priority-based curtailment; senior diversions; hostile diversions; or other, similar causes.

~~7.~~ ~~**Reuse Water Exchange Agreement.** The terms and conditions of the separate Reuse Water Exchange Agreement of even date herewith are hereby incorporated by this reference into this Agreement and made a part hereof.~~

Commented [JG8]: I think this should be deleted. Why have separate agreements if we then incorporate each agreement into the other?

~~8.6.~~ **Costs.** Each Party shall bear all their own costs incurred in preparing, executing, and carrying out this Agreement, including constructing or maintaining water system infrastructure, facilities, measurement devices, and diversion works.

~~9.7.~~ **Measurement.** The Parties shall agree on the type, installation, location, or use of appropriate measuring devices to account for all water exchanged under this Agreement. Each Party shall make records available to the other Party to ensure quantities of water are provided in accordance with this Agreement.

~~10.8.~~ **Term and Termination.** This Agreement shall have a perpetual term unless the Parties terminate this Agreement through written agreement signed by each Party or if this Agreement is terminated as provided by Section 2(c) or Section 9 of this Agreement. If this Agreement is terminated, the Parties shall execute any necessary documents to withdraw the Change Application, as that term is defined in the separate ~~Reuse~~-Water Exchange Agreement between the Parties, or otherwise revert the Secondary Water Rights back to the City's sole use ~~restore each other's respective ownership in their respective Water Rights.~~

~~11.9.~~ **Miscellaneous**

- a. **Default.**

- i. Subject to Section 913(b), if a Party fails to perform its obligations hereunder, or comply with the terms and provisions hereof, and such failure remains uncured for a period of thirty (30) days ("**Cure Period**") after receiving written notice of default from the non-breaching Party, then the non-breaching Party may, in its discretion, pursue all rights and remedies which it may have at law and in equity, including but not limited to injunctive relief, specific performance, damages, and/or termination of the Agreement;
 - ii. If a default described in Section 913(a) cannot reasonably be cured within the Cure Period, and the defaulting Party has commenced to cure such default within the Cure Period and thereafter uses reasonable efforts to cure the default, then the Cure Period shall be extended to one hundred eighty (180) days (including the original period of thirty (30) days), so long as the defaulting Party continues diligently pursuing cure of the default. If, however, the default remains uncured for a period of one hundred eighty (180) days in the aggregate, then the non-defaulting Party may, in its discretion, pursue all rights and remedies which it may have at law and in equity, including but not limited to injunctive relief, specific performance, damages, and/or termination of the Agreement.
- b. **Remedies.** The Parties shall have all rights and remedies provides under applicable Laws for a breach or threatened breach of this Agreement. These rights and remedies shall not be mutually exclusive, and the exercise of one or more of these rights and remedies shall not preclude the exercise of any other rights and remedies. Each Party confirms that damages at law may be an inadequate remedy for a breach or a threatened breach of any provision hereof and the respective rights and obligations of the Parties hereunder shall be enforceable by specific performance, injunction, or other equitable remedy.
- c. **Mutual Indemnity.** The Parties are "governmental entities" as defined in the Utah Governmental Immunity Act (Utah Code § 63G-7-101 et. seq.). Nothing in this Agreement will be construed as a waiver by either or both Parties of any rights, limits, protections, or defenses provided by the Utah Governmental Immunity Act. Nor shall this Agreement be construed, with respect to third parties, as a waiver of any governmental immunity to which a Party to this Agreement is otherwise entitled. Subject to and consistent with the Utah Governmental Immunity Act, each Party (as the "**Indemnifying Party**") shall indemnify, defend and hold harmless the other Party and its board, managers, members, agents, and employees (collectively, the "**Indemnified Party**") from and against all claims and liabilities (including reasonable attorney's fees and court costs) caused by or arising out of any third-party claim alleging: (a) a negligent or more

culpable act or omission of the Indemnifying Party, including any reckless or willful misconduct, in connection with the performance of its obligations under this Agreement, (b) any bodily injury, death of any person, or damage to real or tangible personal property caused by the negligent or more culpable act or omission of the Indemnifying Party, including any reckless or willful misconduct, or (c) violation of Applicable Laws by the Indemnifying Party, except to the extent a claim or liability under Section 24(a) and (b) results from the gross negligence, recklessness, or willful misconduct of the Indemnified Party.

- d. **Notice.** Any and all notices, demands, or other communications required pursuant to this Agreement must be in writing and shall have been properly given and effective when received by the Party to be noticed, or when deposited in the United States mail, certified or registered, or when deposited with a nationally recognized overnight delivery service which keeps receipts of delivery, to the following addresses:

To the District at:
Washington County Water Conservancy District
Attn: General Manager
533 East Waterworks Drive
St. George, Utah 84770

To the City at:
La Verkin City
Attn: Mayor
435 N Main St.
La Verkin, Utah 84745

Either Party may change its address for the purpose of receiving notices, demands, and other communications set forth in this Agreement by providing written notice in the manner set forth above.

- e. **Governing Law and Venue.** The laws of the State of Utah shall govern this Agreement and the transactions contemplated by this Agreement, without giving effect to the choice of law rules thereof. The Parties agree that any judicial action associated with this Agreement shall be taken in the St. George District Court of the Fifth Judicial District of the State of Utah.
- f. **Assignment.** Neither Party may assign or otherwise transfer any of its rights or obligations under this Agreement and any such purported assignment or other transfer shall be void.
- g. **Binding Effect.** This Agreement shall bind and benefit the respective successors and assigns of the Parties.

- h. **Modification.** No modification of this Agreement shall be valid unless made in writing and duly executed by both Parties.
- i. **Interpretation.** The Parties hereto acknowledge and agree that: (i) each Party has had a full and fair opportunity to have counsel review and to negotiate the terms of this Agreement; and (ii) the terms and provisions of the Agreement shall be construed fairly to all Parties hereto and not in favor of or against any Party, regardless of which Party was generally responsible for the preparation of this Agreement. The paragraph and subparagraph headings used herein are for convenience only and shall not be considered in the interpretation of this Agreement.
- j. **Severability.** If any provision of this Agreement is held to be invalid, illegal, or unenforceable by a final decision of a court of competent jurisdiction, any enforceable portion thereof, and the remaining provisions of this Agreement, shall continue in full force and effect.
- k. **Further Assurances.** The Parties to this Agreement agree to do such further acts, take such action, and to execute and deliver to each other such additional agreements, certificates, documents, and instruments as may reasonably be required or deemed advisable to effect the purposes of this Agreement.
- l. **Regional Water Supply Agreement Definitions.** Unless otherwise defined in this Agreement, capitalized terms shall have the meaning set forth in Section 1.1 of the Regional Water Supply Agreement dated as of January 1, 2019 by and among the District and various Municipal Customers, as it may be amended from time to time.
- m. **Entire Agreement.** This Agreement, together with the Exhibits attached hereto, contains the entire agreement by and between the Parties with respect to the subject matter hereof, and supersedes any prior promises, representations, warranties, inducements or understanding between the Parties which are not contained herein.
- n. **No Relationship.** Nothing in this Agreement creates, or is intended to create, any interlocal entity, partnership, joint venture, or fiduciary relationship between the Parties.
- o. **No Third-Party Rights.** The obligations of the District and the City set forth in this Agreement shall not create any rights in or obligations to any other persons or parties not a party to this Agreement.
- p. **No Waiver.** Any Party's failure to enforce any of the provisions of this Agreement shall not constitute a waiver of the right to enforce such

provision. The provisions of this Agreement may be waived only in writing by the Party intended to be benefitted by the provision, and a waiver by a Party of a breach hereunder by the other Party shall not be construed as a waiver of any succeeding breach of the same or other provision.

- q. **Counterparts.** This Agreement may be signed in counterparts, each of which will be deemed an original and all of which taken together will constitute one and the same instrument. The Parties intend that fax or emailed .pdf signatures constitute original signatures and that a faxed or emailed agreement containing the signatures (original, .pdf, or faxed) of all the Parties is binding on the Parties.
- r. **Force Majeure.** No Party shall be considered to be in default with respect to any obligation herein and no Party shall forfeit any right provided herein if the defaulting Party was prevented from fulfilling such obligation or exercising such right by reason of Uncontrollable Forces. A Party rendered unable to fulfill any obligation or exercise any right by reason of Uncontrollable Forces shall use every reasonable effort to remove such inability with all reasonable dispatch.

[Signatures on following pages]

IN WITNESS THEREOF, the District has caused this Agreement to be executed by its duly authorized representative(s) as of the Effective Date.

WASHINGTON COUNTY WATER CONSERVANCY DISTRICT, a Utah water conservancy district

By: _____
Name: Ed Bowler
Its: Chair, Board of Trustees

ATTEST:

Secretary, Board of Trustees

APPROVED AS TO FORM:

| By: Jodi Richins, DistrictWCWCD's Counsel

IN WITNESS THEREOF, the City has caused this Agreement to be executed by its duly authorized representative(s) as of the Effective Date.

LA VERKIN CITY, a municipal corporation and political subdivision of the State of Utah

By: _____
Name: Kelly
Wilson
Its: _____
Mayor

ATTEST:

City Recorder

APPROVED AS TO FORM:

By: _____
Name: Fay Reber
Its: City Attorney

Exhibit A
Surplus Secondary Water Rights

The City will experience a consistent surplus of secondary water under normal operating conditions, with surplus volumes expected to increase due to reductions in agricultural usage and system efficiency gains. The table below summarizes projected Surplus Water Rights under Secondary Water System Improvement Project implementation, 10-year, 20-year, and full buildout conditions.

Milestone	Estimated Surplus Secondary Water (acre feet)
Secondary Water System Improvement Project	976
10-Year (2035)	956
20-Year (2045)	1,052
Build Out	1,360

Exhibit B
Secondary Water Rights

1. Water Right No. 81-2477, Change Application No. a13530 (Certificated), 1,6340.22 acre feet, Priority: 1890.
2. Water Right No. 81-4334, No change application, 990 acre feet, Priority: 1900.
- 2.3. Water Right No. 81-2481, Change Application No. a5300 (Certificated), 20 acre feet, Priority: 1890.

Formatted: List Paragraph, Add space between paragraphs of the same style, No bullets or numbering

Exhibit C
Secondary Irrigation Area Geographical Boundary

[To be inserted]

Exhibit D
Delivery Points

[Before the District delivers water to a Delivery Point pursuant to the terms of this Agreement, the Parties will identify, describe, and provide a depiction of the Delivery Point under Section 3(b)(vi). The description and depiction will distinguish between the District's System and the ~~Secondary Water~~Municipal System.]

